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| 10/667,315 | 09/23/2003 | Takashi Yamamoto | 03500.017622. | 9264 |
| 5514 | 7590 | 05/26/2009 | EXAMINER | |
| FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112 | | | | PARRA, OMAR S |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/667,315 | YAMAMOTO ET AL. | |
| | Examiner | Art Unit | |
| | OMAR PARRA | 2421 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 17 February 2009.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1,7,8,10,16,22,23 and 25 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1,7,8,10,16,22,23 and 25 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>04/13/2009</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION***Response to Arguments***

1. Applicant's arguments with respect to claims **1, 7, 8, 10, 16, 22, 23 and 25** have been considered but are moot in view of the new ground(s) of rejection.

The newly brought limitation of generating ranking information and controlling to stop the receiving of the content data are still met by the art of record as explained in the rejection below.

The examiner respectfully believes that all the limitations of applicant's invention as claimed are still covered by the art of record.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims **1, 7, 8, 10, 16, 22, 23 and 25** are rejected under 35 U.S.C. 103(a) as being unpatentable over Rodriguez et al. (hereinafter 'Rodriguez', Pub. No. 2003/0002862) in view of Griggs (Pub. No. 2008/0077960) in further view of Murase et al. (hereinafter 'Murase', Pub. No. 2004/0083301).

Regarding claims 1 and 16, Rodriguez teaches a receiving apparatus (**DHCT 16, Fig. 4**) (with respective method) comprising:

a reception unit (**442, Fig. 4**) constructed to receive content data and content list data via a network, the content list data including information, which includes a content name,_for specifying each of a plurality of receivable contents data on the receiving apparatus (**[0048]; [0050]-[0051]; [0061]; [0063]; [0070]-[0071]**; **where, every content data includes a content name –a title- for specifying each of a plurality of receivable contents**);

a content processing unit (**processor 444in conjunction with 443, Fig. 4**) constructed to process the content data received by the reception unit to generate video and audio data (**[0062]-[0063]**);

a generating unit (**PRM or other application executed at processor 444**) constructed to generate a content list based on the content list data received by the reception unit, for displaying the content name of each of the plurality of receivable contents data in a list format (**[0051]; [0070]-[0071]; [0081]-[0083]; where a list of available content names –titles- is displayed, 2173, Fig. 21**);

an output unit (**448, Fig. 4; [0062]; Figs. 18-27, which are outputs of both video and content list received**) constructed to output the content list generated by the generating unit, and the video and audio data to a display apparatus (**441; Fig. 4**);

wherein the generating unit generates the content list which relates link information of each content data to the content name of each so as to display

information as to the estimated time in relation to the information for specifying the content data (**On Fig. 21, button 2176 links the highlighted content name of the content list with another generated screen that displays linking information, sections 10 of Figs. 22-26, that includes the estimated times for the chosen content name. This will work the same for all and every one of the titles of the content list).**

a control unit constructed to generate rank information indicating a time period from a selection of the content in the content list by a user until a start of viewing the content, wherein the generating unit generates the content list which displays the rank information of each content data to the content name of each content data (**Figs. 22-26, where estimated time is displayed to the user on section10 of each figure. Different download times are/were estimated and displayed to the user: 2.5 min when the download is marked as immediate, Fig. 25; 62.5 min when marked as ‘complete in 1 hour’; and inherently, 122.5 min when marked ‘complete in 2 hours’, Fig. 22. Therefore, elements 2246 on Fig. 22 represent the generated ranks for the content: the ones that are downloadable immediately, complete in 1 hour and complete in 2 hours, for example. They determine the type of file each one is to the user based on the estimated time).**

controlling to stop the receiving of the content data (**Fig. 31 teaches that the reception of the content data can be stopped by the user).**

On the other hand, although Rodriguez teaches generating a list of receivable content names and linking information between the content name and

its estimated download time, Rodriguez does not explicitly teach that the content list displays all the content names available and their respective estimated time in a list all together and that link information is associated to a ranking indicating easiness of connection based on the estimated time.

However, in an analogous art, Griggs teaches an electronic guide displays all the content available for a user, from all the content providers and with respective download times; all in a single display (300, Fig. 3; [0005]-[0011]).

Therefore, it would have been obvious at the time of the invention to have modified Rodriguez's invention with Griggs' feature of showing all the titles from all the content providers and with respective download times for the benefit of not having the user going back and forth between different screens for every content name for just to know the downloading time of different titles.

Additionally, Rodriguez and Griggs teach that the displayed content list information displayed on the content list (including the estimated download time) is sent from the server (where the estimation and monitoring of the network is performed by a section of the headend; Rodriguez: 323, Fig. 3; [0052]-[0053]). Rodriguez and Griggs also teach that the functionalities of the server and client are interchangeable (Rodriguez: [0061]), which implies or suggests that the client is also able to perform the network monitoring functionality by itself. On the other hand, Rodriguez and Griggs do not explicitly teach that the displayed estimated time is performed by the receiving device and that it corresponds to the time measured a first time period from the selecting of each of a plurality of contents data to be received until a start of actually receiving the selected content data,

and a second time period until meeting a capacity capable of starting to decode of the received content data.

However, in an analogous art, Murase teaches a receiving apparatus (Client terminals 3, Fig. 1) with the capability of dynamically monitoring the network and estimate a time for obtaining pieces of content and for the time needed for processing and displaying the video. Connection time $t(n)$ -sending and receiving time, and decompressing time $c(n)$ is established or detected, to calculate the buffering time for the consecutive display of the content, [0062]-[0079], [0088], [0097]-[0099]. Video is displayed when the buffering time –which is the calculated with the estimation of the times explained before, expires.

Therefore, it would have been obvious to an ordinary skilled in the art at the time of the invention to have modified Rodriguez and Griggs' invention with the receiving device feature of monitoring and estimating the time for presentation as taught by Murase for the benefit of having a dynamic estimation of the time a user has to wait until the video is ready for display instead of an estimation performed before the moment of ordering the content without considering current network characteristics or for the benefit of relieving the server of estimating a download time for all the clients.

Regarding claims 7 and 22, the combined teachings of Rodriguez, Griggs and Murase teach a receiving apparatus (with respective method) wherein the control unit judges that reception is impossible in the case in which a time required for a procedure for receiving a predetermined amount of the content

data has exceeded a predetermined time (**Murase: It is inherent, that if no data is decompressed or received, no video will be displayed. Therefore, if the buffering time is exceeded and if the previous displayed time is over, no video will be shown as an indication of the error, [0118]**), and

the generating unit generates the content list including information indicating that the reception is impossible (**Rodriguez: Fig. 31**).

Regarding claims 8 and 23, the combined teachings of Rodriguez, Griggs and Murase teach a receiving apparatus (with respective method) wherein the reception unit is capable of receiving N pieces of the content data in parallel with each other, and the control unit detects the time for the N pieces of the content data in parallel with each other, which are received by the reception unit means in parallel with each other among the plural content data (**Murase: [0041]**).

Rodriguez: 210, 220, 230 and 240, Fig. 2; [0044]-[0048]).

Regarding claims 10 and 25, the combined teachings of Rodriguez, Griggs and Murase teach a receiving apparatus (with respective method) wherein the reception unit has a storage unit which is capable of storing a predetermined amount of the N pieces of the content data, respectively, and the control unit controls the reception unit so as to store the predetermined N pieces of the content data among the plural content data in the storage unit (**413, Fig. 4; [0070]; [0077]-[0078] ; [0083]**).

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OMAR PARRA whose telephone number is (571)270-1449. The examiner can normally be reached on 9-6 PM (M-F, every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OP

/Annan Q Shang/

Primary Examiner, Art Unit 2424